IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA ATLANTA DIVISION

:

DONNA CURLING, et al.,

Plaintiffs,

- -----,

v. CIVIL ACTION NO. 1:17-cv-2989-AT

BRAD RAFFENSPERGER, et al.,

Defendants.

ORDER

This matter is before the Court on a discovery dispute between the Curling Plaintiffs and the State Defendants. The Court has reviewed the affidavit submitted by Sarah Koth (Doc. 1509-1), the Chief Investigator of the Investigations Division of the Secretary of State's office, asserting investigative privilege over certain limited documents withheld by the State Defendants during discovery. Having reviewed the affidavit, the Court finds that Ms. Koth has appropriately asserted investigative privilege over all but two documents (or portions thereof) which are identified in paragraphs 'c.' and 'i.' of Ms. Koth's affidavit. The State Defendants must therefore produce the two documents, subject to the parties' protective order for now.¹

¹ In Plaintiffs' filing of October 10, 2022 (Doc. 1510), Plaintiffs seek release of all of the documents the State Defendants have identified as subject to the investigative privilege, subject to the

First, the Court **ORDERS** the State Defendants to produce the Coffee County investigations case list, which provides a short description and status of cases relating to Coffee County opened by the Investigations Division of the Secretary of State's office. The case list is a single page titled "Case – all items" from the Coffee County Documents PDF. The State Defendants are permitted to redact from the list each case opened prior to 2020. Second, the Court **ORDERS** the State Defendants to produce the Coffee County 9/28/2021 Report of Investigation, i.e., SEB2020-250 ROI.doc.

Further, it appears to the Court that Ms. Koth did not address each document over which the State Defendants are asserting investigative privilege in her affidavit. Specifically, Ms. Koth did not address the following documents: Sharepoint Server Location and three documents with the filename SEB2020-250 Coffee County.PDF. Accordingly, the Court **DIRECTS** the State Defendants to clarify in a notice to the Court by Tuesday, October 11, 2022 at 12:30 PM whether they are still seeking to assert investigative privilege over these documents and if so, to file an amended affidavit by 2:00 PM.

IT IS SO ORDERED this 10th day of October, 2022.

orable Amy Totenberg

United States District Judge

protective order provisions. The Court is not prepared to do this while the investigation is ongoing, absent exceptional cause.